

UNITED STATES DISTRICT COURT  
DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA	:	
	:	
v.	:	CR No. 17-00123-WES
	:	
MANUEL C. CORADIN	:	

**REPORT AND RECOMMENDATION**

Lincoln D. Almond, United States Magistrate Judge

This matter has been referred to me pursuant to 28 U.S.C. § 636(b)(1)(B) and 18 U.S.C. § 3401(i) for proposed findings of fact concerning whether Defendant is in violation of the terms of his supervised release and, if so, to recommend a disposition of this matter. In compliance with that directive and in accordance with 18 U.S.C. § 3583(e) and Fed. R. Crim. P. 32.1, a revocation hearing was held on March 7, 2023, at which time Defendant, through counsel and personally, admitted that he was in violation of his supervised release conditions. At the hearing, I ordered Defendant detained pending my Report and Recommendation and final sentencing before District Judge William E. Smith.

On December 30, 2022, the Probation Office petitioned the Court for the issuance of an arrest warrant. On that date, the District Court reviewed the request and ordered the issuance of a warrant. Defendant appeared before the Court for a revocation hearing on March 7, 2023 at which time he admitted to the following charge:

**Violation No. 1. Mandatory Condition. Defendant must not commit another federal, state, or local crime.**

On December 21, 2022, Defendant committed the following offenses: Manufacture/Deliver/Possess with Intent to Manufacture/ Deliver Schedule I/II Controlled Substance; Possession of Firearm Prohibited-

Person Convicted of Crime of Violence; Possession Firearm While Deliver or Manufacture Controlled Substance; and Large Capacity Feeding Devices Prohibited, as evidenced by charges filed in Third Division District Court.

As Defendant has admitted this charge, I find he is in violation of the terms and conditions of his supervised release.

### **Recommended Disposition**

Section 3583(e)(2) provides that if the Court finds that Defendant violated a condition of supervised release, the Court may extend the term of supervised release if less than the maximum term was previously imposed. The authorized maximum term of supervised release is life.

Section 3583(e)(3), provides that the Court may revoke a term of supervised release and require the Defendant to serve in prison all or part of the term of supervised release authorized by statute for the offense that resulted in such term of supervised release without credit for time previously served on post release supervision, if the Court finds by a preponderance of evidence that the defendant has violated a condition of supervised release, except that a defendant whose term is revoked under this paragraph may not be sentenced to a term beyond 5 years if the instant offense was a Class A felony, 3 years for a Class B felony, 2 years for a Class C or D felony, or 1 year for a Class E felony or a misdemeanor. Defendant was on supervision for a Class C felony. Therefore, he may not be required to serve more than two-years' imprisonment upon revocation.

Pursuant to 18 U.S.C. § 3583(h) and § 7B1.3(g)(2), when a term of supervised release is revoked and the defendant is required to serve a term of imprisonment that is less than the maximum term of imprisonment authorized, the Court may include a requirement that the defendant be placed on a term of supervised release after imprisonment. The length of such a term of supervised release shall not exceed the term of supervised release authorized by statute for the offense that resulted in the original term of supervised release, less any term of

imprisonment that was imposed upon revocation of supervised release. The authorized statutory maximum term of supervised release is life.

Section 7B1.1 provides for three grades of violations (A, B, and C). Subsection (b) states that where there is more than one violation, or the violation includes more than one offense, the grade of violation is determined by the violation having the most serious grade.

Section 7B1.1(a) notes that a Grade A violation constitutes conduct which is punishable by a term of imprisonment exceeding one year that (i) is a crime of violence, (ii) is a controlled substance offense, or (iii) involves possession of a firearm or destructive device; or any other offense punishable by a term of imprisonment exceeding twenty years. Grade B violations are conduct constituting any other offense punishable by a term of imprisonment exceeding one year. Grade C violations are conduct constituting an offense punishable by a term of imprisonment of one year or less; or a violation of any other condition of supervision.

Section 7B1.3(a)(1) states that upon a finding of a Grade A or B violation, the Court shall revoke supervision. Subsection (a)(2) provides that upon a finding of a Grade C violation, the court may revoke, extend or modify the conditions of supervision. Defendant committed a Grade A violation. Therefore, the Court shall revoke supervision.

Section 7B1.3(c)(1) provides that where the minimum term of imprisonment determined under § 7B1.4 is at least one month, but not more than six months, the minimum term may be satisfied by (A) a sentence of imprisonment; or (B) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in § 5C1.1(e) for any portion of the minimum term. Should the Court find that Defendant has committed a Grade B or C violation, § 7B1.3(c)(2) states that where the minimum term of imprisonment determined under § 7B1.4 is more than six months

but not more than ten months, the minimum term may be satisfied by (A) a sentence of imprisonment; or (B) a sentence of imprisonment that includes a term of supervised release with a condition that substitutes community confinement or home detention according to the schedule in §5C1.1(e), provided that at least one-half of the minimum term is satisfied by imprisonment. Neither of these provisions apply to this matter.

Section 7B1.3(d) states that any restitution, fine, community confinement, home detention, or intermittent confinement previously imposed in connection with the sentence for which revocation is ordered that remains unpaid or unserved at the time of revocation shall be ordered to be paid or served in addition to the sanction determined under § 7B1.4 (Term of Imprisonment), and any such unserved period of confinement or detention may be converted to an equivalent period of imprisonment. Two hundred dollars of the special assessment imposed in this case is still outstanding.

Section 7B1.4(a) provides that the criminal history category is the category applicable at the time Defendant was originally sentenced. Defendant had a Criminal History Category of VI at the time of sentencing.

Should the Court revoke supervised release, the Revocation Table provided for in § 7B1.4(a) provides the applicable imprisonment range.

Defendant committed a Grade A violation and has a Criminal History Category of VI. Therefore, the applicable range of imprisonment for this violation is thirty-three to forty-one months, restricted by statute to twenty-four months.

Section 7B1.5(b) provides that, upon revocation of supervised release, no credit shall be given toward any term of imprisonment ordered, for time previously served on post-release supervision.

### **Analysis and Recommendation**

On December 21, 2022, Defendant was arrested by the Rhode Island State Police on felony drug trafficking and firearm possession charges. He has subsequently plead guilty to those charges in Superior Court and has received a lengthy twenty-five-year prison sentence with fifteen years to serve.

Defendant has admitted to a Grade A violation based on this State conviction. The parties have agreed to a twenty-four-month sentence with the intention that the time will run concurrently with Defendant's State sentence. Both sides agree that further supervised release makes no sense given the length of Defendant's State sentence which will be followed by a term of State probation. I concur in both respects and so recommend.

### **Conclusion**

After considering the sentencing factors set forth in 18 U.S.C. § 3553(a), I recommend that Defendant be sentenced to a term of twenty-four months followed by no further supervised release.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of Court within fourteen days of its receipt. Fed. R. Crim. P. 59; LR Cr 57.2. Failure to file specific objections in a timely manner constitutes a waiver of the right to review by the District Court and the right to appeal the District Court's Decision. United States v. Valencia-Copete, 792 F.2d 4 (1<sup>st</sup> Cir. 1986); Park Motor Mart, Inc. v. Ford Motor Co., 616 F.2d 603 (1<sup>st</sup> Cir. 1980).

/s/ Lincoln D. Almond  
LINCOLN D. ALMOND  
United States Magistrate Judge  
March 7, 2023